IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1586 OF 2005

Tulsidas Namdeo Lipare ...Appellant
Vs.
Narayan Rakhmaji Pise
(through legal representatives) ...Respondents

Mr. Nitin Dhumal i/b Mr.V.Y.Jadhav for the Appellant
Mr.K.B.Sonwalkar for the Respondent Nos. 4 & 5.

CORAM: A.S.OKA, J.
DATED: MARCH 24,2006.

P.C.:

1. On 17th March 2006 this Appeal was fully argued for admission. When this Court was inclined to dismiss the Appeal on merits, the learned Counsel for the Appellant sought time to take instructions whether the Appellant wants longer time to vacate. To enable the Advocate for the Appellant to take instructions, Appeal was kept on 23rd March 2006 and today for passing the order.

2. The Advocate for the Appellant today stated that he had sent a telegram to the Appellant but he has not responded. He stated that the Advocate for the Appellant appearing in the Trial Court informed him that the Appellant desires to engage another Advocate.

3. As the Appeal is fully argued for admission, the Appellant cannot be permitted to engage a new Advocate.

4. The Second Appeal is by the original Defendant. The trial Court passed a decree in favour of the Respondents-original Plaintiffs. In an Appeal preferred to the District Court, decree has been modified to some extent.

5. After having heard the Advocates for the parties, I find that no case is made out for interference. The Courts below have concurrently held that the Respondents-Plaintiffs have established that they are the owners of the suit property. The plea of adverse possession raised by the Appellant has been negatived by both the Courts below.

6. Mere long standing possession is not sufficient to prove adverse and hostile possession. Considering the evidence on record, the Courts below have held that the Appellant has failed to establish adverse possession.

7. In view of a concurrent findings of fact recorded by the Courts below, no substantial question of law arises. Second Appeal is dismissed with no order as to cost.

8. At this stage, the learned Counsel for the Appellant prays for time to vacate. The learned Counsel for the Respondents has no objection if the time is granted to vacate the possession. Decree for possession shall not be executed for a period of four weeks from today.

Judge.